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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROGER STEVEN CARDENAS, an infant, by his
Mother and Natural Guardian, EUDOCIA
ANGUISACA, and EUDOCIA ANGUISACA,
individually,

Plaintiffs,

against -

HELPS MEMORIAL HOSPITAL CENTER, OPEN
DOOR FAMILY MEDICAL CENTER, INC. and
OSSINING OPEN DOOR,

Defendants.

HELPS MEMORIAL HOSPITAL CENTER,

Third-Party Plaintiff,

against -

OPEN DOOR FAMILY MEDICAL CENTER, INC.
and OSSINING OPEN DOOR,

Third-Party Defendants.

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DATE FILED: _____

ECF CASE

07 Civ. 11145 (KMK)(GAY)

STIPULATION TO SUBSTITUTE
THE UNITED STATES AS A
DEFENDANT AND
THIRD-PARTY DEFENDANT

WHEREAS on or about December 1, 2006, plaintiffs Roger Steven Cardenas and his mother Eudocia Anguisaca (collectively, the "Plaintiffs") commenced a medical malpractice action against Phelps Memorial Hospital Center ("Phelps") in New York State Supreme Court in Westchester County, alleging in their Verified Complaint (the "Original Complaint") negligence on the part of Phelps in failing to care for and manage the labor, delivery and post-delivery of the Plaintiffs on or about August 10, 2005.

WHEREAS on or about November 6, 2007, Phelps filed a third-party complaint (the "Phelps Complaint") against defendant and third-party defendant Open Door Family Medical Center, Inc. and its office in Ossining, New York, defendant and third-party

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defendant Ossining Open Door, (collectively, "Open Door") in the state court, asserting a claim for contribution related to the Plaintiffs' claim against Phelps.

WHEREAS on or about November 19, 2007, Plaintiffs filed a Verified Amended Complaint (the "Amended Complaint"), naming Phelps and Open Door as co-defendants and alleging negligence in their provision of medical care to Plaintiffs in relation to the labor, delivery and post-delivery care of plaintiff Cardenas on or about August 10, 2005.

WHEREAS on December 11, 2007, the United States removed this action pursuant to 42 U.S.C. § 233(a) and 28 U.S.C. § 2679(d)(2) to this Court, based on the certification of the United States Attorney for the Southern District of New York dated December 7, 2005, that Open Door and its physicians, nurses and other staff were acting within the scope of their federal employment at all times relevant to the allegations in this action; and

IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, Phelps, Open Door and the United States, by their respective counsel as follows:

1. Pursuant to 42 U.S.C. § 233(a) and 28 U.S.C. § 2679(d), the United States shall be substituted as a defendant and the third-party defendant in this action to the extent that Plaintiffs' and Phelps's claims are against Open Door.

2. The parties understand and agree that this Stipulation contains the entire agreement between them, and that no statements, representations, promises, agreements, or

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negotiations, oral or otherwise, between the parties or their respective counsel that are not included herein shall be of any force or effect.

Dated: New York, New York
April 14, 2008

MICHAEL J. GARCIA
United States Attorney

By: Li Yu
LI YU
Assistant United States Attorney
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Counsel for the United States
and Open Door

Dated: New York, New York
~~April~~, 2008
March 31

By: [Signature]
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Counsel for Plaintiffs Anguisaca
and Cardenas

Dated: Yonkers, New York
April 8, 2008

By: Rocco Conte
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So Ireland,
[Signature]
4/18/08